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MAR 17 1966
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 1128

RENN DRUM, JR., On Behalf of Himself and all Others Similarly Situated,

and

JESSE H. AUSTIN, JR., NORMAN C. DENNING, JOSEPH GRIMES, MRS. RUTH SHAW, DAVID BRADLEY, MRS. JAMES PROTHRO, HUGH M. WILSON, ROBERT S. METZGER, and MRS. DAVID I. FORT, *Appellants*,

v.

MALCOLM B. SEAWELL, Chairman of the North Carolina State Board of Elections; JOHN G. CLARK, MRS. ROBERT W. PROCTOR, HIRAM H. WARD and PAUL OSBORNE, Members of the North Carolina State Board of Elections, *Appellees*.

MOTION TO ADVANCE AND TO EXPEDITE CONSIDERATION

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v.

MALCOLM B. SEAWELL, Chairman of the North Carolina State Board of Elections; JOHN G. CLARK, MRS. ROBERT W. PROCTOR, HIRAM H. WARD and PAUL OSBORNE, Members of the North Carolina State Board of Elections, *Appellees*.

MOTION TO ADVANCE AND TO EXPEDITE CONSIDERATION

Appellants hereby apply to the Court for the advancing of their appeal by this Court and the expediting of the consideration of the appeal, with or without oral argument; and in support of their application, they respectfully show:

1. This appeal is taken from an Order of the Court below dated February 18, 1966 and an Order of March 8, 1966 denying the Petition to reconsider and rehear. The combined effect of these Orders was to declare constitutionally defective a congressional redistricting plan prepared in a January 1966 special session of the North Carolina General Assembly, but to allow use of this plan during the 1966 primaries and elections, wherein Representatives to the United States Congress will be elected to serve two year terms commencing in January 1967.

2. Appellants have proceeded promptly to perfect their appeals, and to file the Jurisdictional Statement required by the Court's rules.

3. As set forth in the Jurisdictional Statement, this appeal against the most recent redistricting plan sets forth substantial questions arising under *Swann* v. *Adams,* (No. 973), decided February 25, 1966; *Reynolds* v. *Sims,* 377 U.S. 533; and *Wesberry* v. *Sanders,* 376 U.S. 1.

4. The orders of the Court below approving a constitutionally defective interim plan and the Appellants' appeal therefrom have created substantial uncertainty among candidates for office in the United States House of Representatives and among the voters of North Carolina; and it is desirable that this uncertainty be dispelled as soon as possible and an answer provided to the substantial questions concerning the legality of allowing the interim redistricting plan.

5. The primaries to choose Congressional candidates are scheduled to take place on May 28, 1966—with runoff primaries to take place four weeks later to whatever extent such runoff primaries may be required; and the elections will occur in November 1966.

6. Unless the Appellants' appeal is advanced on the Court's calendar and receives expeditious consideration by the Court, that appeal will become moot, and the constitutional rights of the Appellants will be rendered nugatory despite their prompt and timely efforts to assert and protect those rights.

7. Failure to advance the appeal on the Court's calendar will protract existing uncertainty and thereby adversely affect the electoral process in North Carolina with respect to the election of Representatives to the United States Congress, and as a result irreparable injury will be done to the rights of the Appellants and of all other North Carolina citizens.

WHEREFORE, Appellants respectfully pray the Court to advance the Appeal on the calendar for hearing or other disposition, and to expedite the Court's consideration of the Appeal, and to take such other action as is just, including: (1) the shortening of time periods under Rule 16(1), (2) the advance of disposition of this case to a time substantially prior to the May 28, 1966 primary elections in North Carolina, (3) the dispensing of the printing and designation of record since the issues are those of law and are adequately contained in the opinions below.

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